

Stock, Maiming of Defined. Animals, Injury To By Maiming, How Determined. "Maims", Meaning of. Statute, Construction of Section 8781.

The word "maim", as used in the statute, is practically synonymous with the word "cripple", but the meaning may

be extended by the facts existing, and such facts must be considered to determine whether or not the animal is "maimed".

Helena, Montana, Jan. 5, 1916.

Hon. D. W. Raymond,
Secretary State Board of Stock Commissioners,
Helena, Montana.

Dear Sir:

I am in receipt of your communication of the 23rd ultimo, enclosing letter from Stock Inspector Sellers, submitting the question:

"as to the meaning of the word 'maim', as the same is used in Section 8781, Revised Codes?"

The word "maim" as used in the law, is practically synonymous with the word "cripple", but it may also mean an injury that will diminish the usefulness of the animal to the owner.

"'Maim', as used in the code, Section 6276, making it criminal to kill, maim or disfigure any horse, cattle, etc., implies some permanent injury."

State v. Harris, 11 Iowa, 414.

"The word 'maim' is used in the sense of 'to cripple'".

Turman v. State, 4 Tex. App. 586.

If the animal is not rendered permanently lame, or is not permanently deprived of one of its members or organs, but if its bodily vigor is permanently affected by decreasing the animal's strength, activity or vitality, the charge of "maiming" is sustained.

Baker v. State, 4 Ark. (4 Pike), 56.

In Georgia it has been held that to shoot a cow is not to "maim" it.

Patten v. State, 93 Georgia, 111, 19 S. E. 734, 24 L. R. A. 732.

However, the Supreme Court of Georgia in a later case, wherein the defendant was arrested charged with maiming a cow by shooting her through the udder, said, with reference to this former case and the case then at bar:

"The effect of that decision (Patten v. State, 93 Ga. 111) is that a person who inflicts upon cattle injury of a character less than that which would deprive it of or render useless one or more of its useful members would not be guilty of a crime, but the owner would be remitted to his action for damages. However, construing the word 'maim' in its technical sense, as a deprivation of or the rendering useless of a member, one who, by shooting or otherwise injuring a cow, thus deprives it of or renders useless any useful member, that is, a useful member to its own locomotion, or useful to the owner in the way in which such animal was employed, would be guilty of a criminal offense under the statute; for the animal in such condition would be a maimed animal."

Brown v. State, 127 Ga. 287, 288, 56 S. E. 405.

3 Corpus Juris, 165, 2 Cyc. 428.

From these authorities it appears that the question as to whether the animal is maimed, is a question of fact, and the authorities quoted

only give the general rules which may serve as a general guide. Section 8781 of the Penal Code, is a very drastic enactment, and from the practical side of the question, jurors would be very loath to subject a man to ten years imprisonment for injuring an animal, unless the circumstances attending it were of an aggravating nature. Especially is this so in view of the fact that Section 8774 of the same Code, permits the prosecution and conviction on a charge of a misdemeanor. If, therefore, there is any substantial doubt as to whether the case comes clearly within the provisions of Section 8781, the charge should be laid under Section 8774.

I return herewith the letter of Mr. Sellers.

Yours very truly,

J. B. POINDEXTER,

Attorney General.